



California Independent Petroleum Association
1001 K Street, 6th Floor
Sacramento, CA 95814
Phone: (916) 447-1177
Fax: (916) 447-1144

**Comments of the California Independent Petroleum Association
on the Proposed Greenhouse Gas Emission Standards for
Crude Oil and Natural Gas Facilities (2/1/15 version)**

Joe Fischer
Project Lead, Oil & Gas Regulation
California Air Resources Board
1001 I Street
Sacramento, CA 95814

February 24, 2016

Via electronic submittal to: joseph.fischer@arb.ca.gov

The California Independent Petroleum Association (CIPA) appreciates the opportunity to submit the following comments to the California Air Resources Board (CARB) for its consideration. We would also like to thank you for taking the time to speak with us on numerous occasions to walk through the rule in detail.

The Proposed Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities is an entirely new regulation under California's continued push to reduce greenhouse gases (GHGs) and is designed specifically to address a single pollutant within a single industrial category, therefore this opportunity to fully address and evaluate its impacts on that single industry is critical.

The mission of CIPA is to promote greater understanding and awareness of the unique nature of California's independent oil and natural gas producer and the market place in which he or she operates; highlight the economic contributions made by California independents to local, state and national economies; foster the efficient utilization of California's petroleum resources; promote a balanced approach to resource development and environmental protection and improve business conditions for members of our industry. In-state petroleum production can play a role in helping the state meet its dual goals of a strong statewide economy while reducing GHG emissions in California.

This version of the rule is much improved in terms of clarity and drafting, and incorporates many of the suggested comments from the previous version. But as drafted, it still has some rather important implementation and enforcement issues CIPA members would like addressed prior to finalization of the rulemaking.

CIPA's concerns are summarized below:

- Regulatory Scope
- Implementation Timeframes
- Need for Additional Language Clarity
- Implementation and Enforcement
- Cost Impacts

Regulatory Scope

The Regulation has a variety of control strategies¹. The Standardized Regulatory Impact Assessment (SRIA) shows that 93% of all projected reductions come from only three strategies--Uncontrolled Oil and Water Separators and Tanks, Reciprocating Compressors, and Pneumatic Devices and Pumps. The remaining categories combined are projected to only achieve 36,650 MT CO₂e, with the Liquids Unloading category only projected to achieve 350 MT CO₂e. The combined total is only slightly larger than the threshold that subjects an entire facility to the Cap and Trade Program. The potential reductions from these remaining categories are equivalent to roughly 0.01% of the 2018 allowance budget. Additionally, the SRIA has not been updated to include the new emissions estimates that were presented on February 4, 2016. The current emissions numbers are significantly different and smaller from what is included in SRIA.

CIPA is concerned that the scope of the regulation extends past the point where it really achieves significant reductions and into that of diminishing returns. Each of these smaller categories comes with a cost in terms of not only capital, but ongoing administrative requirements for CARB, the air districts, and the covered entities. It would seem to be a much more effective use of staff and entity time and resources to focus only on the larger reduction categories. Additionally, when discussing the monetary impact of the regulation, careful consideration should be given the individual Operator who may have only limited production and limited resources as well. The overall impact to these individuals could well be disastrous.

CIPA recommends the final regulation focus only on the largest reduction potential categories listed above.

Implementation Timeline

Staff has proposed a very aggressive regulatory implementation timeline. CIPA questions the necessity for such a schedule. This is a major regulation impacting millions of components and hundreds of facilities throughout the state, each one having to implement multiple regulatory changes at a variety of complex facilities.

The proposed regulation states January 1, 2017 as the effective date for record-keeping, reporting, and Leak Detection and Repair (LDAR) provisions. The effective date for retrofits is one year later, January 1, 2018. CIPA supports a two-tier implementation schedule. This bifurcated approach makes sense. However, CIPA questions the necessity for such a short implementation schedule and has additional concerns on the clarity of the actionable items.

If the current regulatory adoption schedule holds as described at the February workshop, the earliest the regulation could be finalized and through the complete administrative procedures is November 2016, and would then become effective only a short time later on January 1, 2017. This does not provide adequate time for entities to prepare once the rule is in its final form. With compliance (and enforcement) beginning immediately, any misinterpretation or unforeseen issues could jeopardize an Operator's ability to fully comply. As discussed below, there are serious concerns and questions about the enforcement provisions of the proposed regulation.

¹http://www.dof.ca.gov/research/economic_research_unit/SB617_regulation/2014_Major_Regulations/documents/Oil&GasSRIA.pdf

Additionally, this Regulation impacts a variety of facilities throughout California, some of which already have vapor controls, while others do not. Requiring ALL retrofits within 12 months could provide a measurable cost differential between production entities over this initial timeframe. This differential could negatively impact various CIPA members.

The regulation also does not take into account the often considerable time for engineering, permitting, environmental review and installation of equipment. The timing for this series of events can routinely take more than a year. It may make sense to phase compliance in over 2 or 3 years (i.e. – Year 1, 30%, Year 2, 30%, Year 3 40%) beginning in 2019. This methodology would provide suitable time for the proper planning and execution of necessary regulatory language at the local level as well as equipment updates.

CIPA recommends staff work with stakeholders prior to establishing the final implementation dates within the regulation. At a minimum, CIPA would recommend 1/1/18 as the initial deadline for LDAR and 1/1/19 for controls. Phased implementation would ensure adequate contractor availability, equipment planning, purchase, transport, and installation.

Need for Additional Language Clarity

As mentioned, CIPA appreciates the time taken to walk through the rule in detail. This effort has been productive and has highlighted some areas that could be drafted in a clearer manner. Those changes are summarized in Attachment A.

These suggestions are intended to assist entities by clarifying the requirements and eliminating ambiguities that could lead to compliance and enforcement questions.

CIPA recommends staff incorporate suggested clarifying edits.

Implementation and Enforcement

The enforcement provisions of the regulation codify double jeopardy for regulated parties as well as formal regulatory implementation decisions outside of the Administrative Procedures Act. CIPA has a significant concern over these topics.

It is anticipated that more than one local air district will enter into an Memorandum of Agreement or Understanding with CARB to implement Rule provisions locally. These MOA/MOU's should be finalized and made public prior to the effective date of the regulation. Knowing who your regulatory lead is, is just as important as the standards themselves.

Historically, air quality regulations have been segregated into either "CARB enforced" or "local enforced". This clear delineation has been well established. A regulated party should only have to answer to one regulatory body for a single regulatory regime. This regulation subjects CIPA members to potential violation at both the State and local level for the same potential offense.

Section 95674-Enforcement, attempts to clarify how the regulation will be enforced by specifying that failure to comply with any requirement is a separate violation, on a per day basis, coupled with another violation for each ton of methane emitted. These provisions actually do just the opposite. A simple example that highlights this issue is a facility has two leaks documented on an annual basis. Is this a single violation (exceeding leak thresholds),

or, is this two violations? Perhaps it is 730 violations (2 x 365)? Do you calculate the methane emissions as well for a tonnage violation? The permutations and potential penalties get rather large rather quickly.

Both the double jeopardy and the enforcement ambiguity are concerning to CIPA.

CIPA strongly recommends that prior to regulatory adoption, these pending implementation and enforcement issues are resolved in the public domain, including the elimination of possible double jeopardy.

Cost Estimates

The cost projections for this regulation are presented on statewide basis and include very large ranges of potential costs. The cost projections provided by staff at the February 4, 2016, workshop do not provide a clear picture of what this rule would cost an individual CIPA member based on their operations. The average overall cost per unit of emissions reduced for the various measures across all affected facilities may be reasonable, but it will generally be higher in smaller facilities than in larger facilities (e.g., a vapor recovery control system for a small separator / tank system vs. a larger one).

Because this Regulation is considered to be a “major regulation”, as it will have projected single-year costs of over \$50 million, a supplemental economic analysis is required by law. That analysis was last updated in early 2015 with the “Standardized Regulatory Impact Assessment (SRIA) of the Regulation for Reduction of Greenhouse Gas Emissions from Crude Oil and Natural Gas Operations” posted on the Department of Finance website. The SRIA analysis looks at this regulation from a macro viewpoint, using comparisons with the entire state economy and Gross State Product. This type of analysis does not provide an individual stakeholder the ability to actually see what the potential projected costs could be for their operations. In addition, the analysis uses the 20-yr GWP value for methane in stark contrast to every other analysis CARB has completed for either the MRR or C&T programs. This inconsistency is unacceptable.

Even taken together, these two documents do not provide a clear picture of the estimated costs to comply with this proposal. Likewise the information presented at the recent workshop is too high level for individual members to fully estimate the rules cost.

CIPA requests that staff prepare an updated and detailed economic impact document which clearly shows what the individual impact potential would be on entities. The SRIA document should be updated and available for public comment.

As this process moves forward, CIPA looks forward to continually working with you to improve its provisions. Thank you for your attention to this important matter. Any questions or follow-up comments can be directed to rock@cipa.org.

Sincerely,



Rock Zierman
CEO

316332999.1